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2  
3 UNITED STATES DISTRICT COURT

## 4 DISTRICT OF NEVADA

5 ALFONSO M. BLAKE,

Case No. 3:19-cv-00321-ART-CSD

6 v.

Petitioner,

ORDER

7 JAMES DZURENDA, et al.,

8 Respondents.  
9

10 Before the Court are competing proposals for language that would give  
11 Plaintiff injunctive relief so that he can receive a vegan diet consistent with his  
12 religious beliefs. (ECF Nos. 75; 76.) Before the Court is also Plaintiff's request for  
13 reconsideration of this Court's Order. (ECF No. 75.) The Court previously granted  
14 summary judgment in favor of Plaintiff with respect to his RLUIPA claim, granted  
15 summary judgment in favor of Defendant Thomas (the only Plaintiff sued for  
16 damages), and dismissed Plaintiff's constitutional claims as duplicative of his  
17 RLUIPA claim. (ECF No. 74.) The Court directed the parties to confer and submit  
18 proposed language for injunctive relief and further ordered that if the parties are  
19 unable to reach an agreement each should submit supplemental briefing. (*Id.*)  
20 The parties are unable to reach an agreement with respect to the language of an  
21 injunction and Plaintiff further requests reconsideration of the Court's Order.  
22 (ECF Nos. 75; 76.) The Court adopts Defendant's proposed language and denies  
23 Plaintiff's request for reconsideration.

24 Plaintiff's supplemental brief requests reconsideration of this Court's Order  
25 with respect to two issues. Plaintiff requests that the Court revisit its finding that  
26 Defendant Thomas did not personally participate in any alleged constitutional  
27 violation because he was merely a grievance responder and requests that the  
28

1 Court revisit its decision to dismiss Plaintiff's constitutional claims as duplicative  
2 of his RLUIPA claim.

3 The Court declines to reconsider its Order with respect to Defendant  
4 Thomas. Plaintiff incorrectly relies on Nevada Administrative Code ("AR") 810.3  
5 to support his contention that Thomas was not merely a grievance denier but  
6 personally participated in the alleged deprivation of Plaintiff's constitutional  
7 rights. Defendant Thomas was the Deputy Director during the relevant time  
8 frame. AR 810.3 gives the Deputy Director decision-making power with respect  
9 to recognition of new faith groups and personal religious property. AR 810.3 does  
10 not apply to the monitoring or implementation of religious diets. Another  
11 regulation, AR 814, governs the monitoring and implementation of religious diets.  
12 AR 814 does not give decision-making power to the Deputy Director. As such, AR  
13 810.3 does not support Plaintiff's argument for reconsideration.

14 The Court also declines to revisit its decision with respect to the dismissal  
15 of the constitutional claims as duplicative of the RLUIPA claim. The Court  
16 dismissed Plaintiff's constitutional claims after it dismissed Defendant Thomas,  
17 the only defendant sued in his personal capacity. After Defendant Thomas was  
18 dismissed, the Court was left with an RLUIPA claim and constitutional claims  
19 requesting identical injunctive relief. The Court found it imprudent to reach the  
20 constitutional claims because the relief was duplicative of the RLUIPA claim. The  
21 only case cited by Plaintiff that appears relevant is *Jones v. Williams*, which  
22 supports this Court's decision. 791 F.3d 1023 (9th Cir. 2015). In *Jones*, the Ninth  
23 Circuit found the plaintiff's RLUIPA and free exercise claims moot with respect to  
24 injunctive relief because he had been released from prison but addressed his  
25 constitutional claims only to the extent the claims sought money damages, a  
26 different form of relief. *Id.* Like in *Jones*, any request under the Constitution for  
27 injunctive relief would be moot insofar as this Court already granted injunctive  
28 relief under RLUIPA.

The Court adopts Defendant's proposed language for injunctive relief, which is narrowly tailored to the Court's decision. The Court rejects Plaintiff's proposed language because it would require the Court to unreasonably interfere with NDOC's ability to manage its facility. Plaintiff requests, for example, that NDOC to allow Plaintiff to purchase vegan products from an outside vendor if food items are not available and requests personal delivery of his meals by food service cooks. These requests exceed the scope of the Court's Order.

IT IS THEREFORE ORDERED that the proposed injunction set forth in ECF No. 76 is adopted and incorporated by reference.

IT IS FURTHER ORDERED that to the extent Plaintiff's supplemental brief (ECF No. 75) moves this Court for reconsideration of this Court's Order (ECF No. 74) the motion is DENIED.

DATED THIS 3<sup>rd</sup> day of January 2023.

Anne Russell Brown

ANNE R. TRAUM  
UNITED STATES DISTRICT JUDGE